



February 2, 2006

Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Rules and Regulations Implementing the Telephone Consumer
Protection Act of 1991, CG Docket No. 05-338;
70 FR Page 75102 (December 19, 2005)

Dear Ms. Dortch:

America's Community Bankers ("ACB")¹ is pleased to provide reply comments in response to the above-referenced Notice of Proposed Rulemaking ("NPRM") to implement the Junk Fax Prevention Act of 2005 ("JFPA"). In particular, Section 2(e) of the JFPA authorizes the Federal Trade Commission ("Commission") to consider exempting tax-exempt nonprofit professional or trade associations from the notice requirements of the JFPA. The Commission requests public comments on whether it should adopt such an exemption.

ACB Position

ACB, as have other trade and professional associations during this comment period,² strongly urges the Commission to exercise its statutory discretion and exempt tax-exempt nonprofit professional and trade associations from the "opt-out" notice requirements of the JFPA. Such an exemption would

¹ America's Community Bankers is the member driven national trade association representing community banks that pursue progressive, entrepreneurial and service-oriented strategies to benefit their customers and communities. To learn more about ACB, visit www.AmericasCommunityBankers.com.

² See American Bar Association Comments at 2-3; Mortgage Finance Coalition Comments at 12-13; National Association of Realtors Comments at 14-16; National Federation of Independent Business Comments at 6; U.S. Small Business Administration Comments at 8.

allow ACB to send unsolicited advertisements to its members in furtherance of its tax-exempt purpose without concern for the “opt-out” notice requirement. As a tax-exempt nonprofit trade association, it is critical that ACB be able to communicate effectively and at minimal expense with its members and the public.

Background

As a tax-exempt nonprofit trade association, ACB works for the benefit of its members providing legislative and regulatory updates, and information on publications, events, educational programming, meetings and conferences. Sending this information by fax is often the most effective and least costly means of communicating it to ACB members. Receiving this information on a timely and regular basis by fax is one of the benefits of membership in our organization. Our members joined ACB to have access to this type of information and resources, and our members expect to receive this information by fax. For this reason, an “opt-out” notice requirement is not necessary.

Nevertheless, ACB seeks to accommodate its members as to how they wish to receive information. ACB has in place an “opt-out” procedure with a clear notice on the cover page of faxes sent. The recipient may request its fax number be removed from the list by calling a toll-free number, a local number or a local fax number. A member’s “opt-out” request is kept in the member’s profile. ACB anticipates leaving this procedure in place as good business practice.

Thank you for the opportunity to comment on this important matter. Should you have any questions, please contact the undersigned at (202) 857-3186 or via e-mail at slachman@acbankers.org.

Sincerely,

A handwritten signature in cursive script that reads "Sharon H. Lachman".

Sharon H. Lachman
Regulatory Counsel